

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MIAMI VALLEY FAIR HOUSING :
CENTER, INC., et al,

Plaintiffs,

vs.

STEINER + ASSOCIATES, INC., :
et al.,

Defendants.

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Case No. 3:08cv00150

District Judge Thomas M. Rose

Magistrate Judge Sharon L. Ovington

THIRD REPORT AND RECOMMENDATIONS¹

On May 13, 2010, a First Report and Recommendations (Doc. #339) issued in this case, followed soon by a Second Report and Recommendations (Doc. #340). Each Report concluded that certain Third-Party Defendants' Motions to Dismiss were well taken. Third-Party Defendant TranSystems Corporation's Amended Motion to Dismiss was not included in those Reports.

The case is presently pending on TranSystems Corporation's Objections (Doc. #348) to the First Report and Recommendations, TranSystems Corporation's Motion to Dismiss (Doc. # 174), TranSystems Corporation's Amended Motion to Dismiss (Doc. #224), Third-Party Plaintiffs' Memorandum in Opposition (Doc. #287), the parties' related filings, and the record as a whole.

TranSystems Corporation's Objections do not challenge the First Report and Recommendations as contrary to law or fact. *See* Doc. #348. Instead TranSystems

¹ Attached hereto is a NOTICE to the parties regarding Objections to this Report and Recommendations.

Corporation objects on the ground that its Amended Motion to Dismiss should have been included in the First Report and – like the other similar Motions addressed therein – found well taken.

TranSystems Corporation's original Motion to Dismiss did not raise the same indemnification/contribution issues addressed in the First Report and Recommendations. *See* Doc. #s 174, 339. However, TranSystems Corporation amended its Motion to Dismiss to incorporate the same indemnification/contribution arguments raised in certain other Third-Party Defendants' Motion to Dismiss. *See* Doc. #224. As a result, TranSystems Corporation's Amended Motion to Dismiss essentially duplicated the arguments that were later found to have merit by the First Report and Recommendations. *See* Doc. #339.

Accordingly, the First Report and Recommendations is incorporated herein in full and by reference, and Third-Party Defendant TranSystems Corporation's Amended Motion to Dismiss is well taken for the reasons explained in the First Report and Recommendations.

IT IS THEREFORE RECOMMENDED THAT:

Third-Party Defendant TranSystems Corporations's Amended Motion to Dismiss (Doc. #174, 224) be GRANTED for the reasons explained in the First Report and Recommendations.

June 4, 2010

s/Sharon L. Ovington
Sharon L. Ovington
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).